

The Corporation of the Town of Lakeshore

By-law Number 127-2019

A By-law to Establish User Fees for Certain Services Provided by the Corporation of the Town of Lakeshore

Whereas Section 391(1) of the *Municipal Act, 2001*, S.O. 2001, C.25, allows municipalities to pass by-laws imposing fees or charges for services or activities provided, documents provided, use of property and related matters;

And whereas the Council of The Corporation of the Town of Lakeshore (hereinafter referred to as the “Town of Lakeshore”) wishes to pass a by-law respecting fees for processing of applications to the Town of Lakeshore for services, inspections, activities, document provision, use of property and facilities provided by the Town of Lakeshore and related matters;

And whereas Section 69 of the *Planning Act*, R.S.O. 1990, c.P.14, allows municipalities to pass a by-law imposing a tariff of fees for processing of applications made in respect of planning matters;

And whereas the Council of the Town of Lakeshore wishes to establish a tariff of fees for processing applications made under the *Planning Act*;

And whereas Section 7 of the *Building Code Act, 1992*, S.O. 1990, c.25, allows municipalities to pass a by-law concerning the issuance of permits and related matters requiring the payment of fees on applications for and on the issuance of permits;

And whereas the Council of the Town of Lakeshore wishes to establish a tariff of fees for processing applications made under the *Building Code Act, 1992*;

And whereas Section 446(1) of the *Municipal Act, 2001*, S.O. 2001, C.25, authorizes the municipality under this or any other Act or under by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person’s expense;

Now therefore the Council of The Corporation of the Town of Lakeshore enacts as follows:

1. Definitions

- 1.1. In this by-law: “Schedule” means Schedules A through to and including K attached to this by-law.

2. Interpretation

- 2.1. Whenever this by-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the by-law with the gender applicable to the circumstances.
- 2.2. References to items in the plural include the singular, as applicable.
- 2.3. The words “include”, “including” and “includes” are not to be read as limiting the phrases or descriptions that precede them. Any examples provided are intended to be representative examples and not intended to be an exhaustive list.
- 2.4. Headings are inserted for ease of reference only and are not to be used as interpretation aids.
- 2.5. Specific references to laws in the by-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario as at

the time the by-law was enacted, as they are amended, restated or replaced from time to time.

2.6. Any reference to periods of time, stated in number of days, shall be deemed applicable on the first Business Day after a Sunday or statutory holiday if the expiration of the time period occurs on a Sunday or statutory holiday.

2.7. The obligations imposed by the by-law are in addition to obligations otherwise imposed by law or contract.

3. Severability/Conflict

3.1. If any section, subsection, part or parts of this by-law is declared by any court of law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

3.2. Nothing in this by-law relieves any person from complying with any provision of any federal or provincial legislation or any other by-law of the Town of Lakeshore or shall be deemed to authorize anything contrary to the *Municipal Act, 2001*.

4. Fees Established

4.1. The Council of the Town of Lakeshore hereby establishes the fees and charges as set out in the Schedules attached to and forming part of this by-law. Where indicated, disbursements or other costs incurred by the Town of Lakeshore shall be charged in addition to the fees identified.

5. Payment Terms

5.1. Any person who makes an application to, or a request for, any services, activity, use of any Town property or facility described in a Schedule attached to and forming part of this by-law, or enters into an agreement with, or obtains approval from, the Town, in respect of things or matters set out in this by-law, shall pay to the Treasurer the applicable administrative fees or charges set out in the Schedules to this by-law unless otherwise provided for in this by-law. Such administrative fees and charges are not refundable, unless otherwise provided for in this by-law, and are payable upon the person making such application or requiring services or entering into such agreement or obtaining such approval.

5.2. Except as expressly provided to the contrary or where not possible in the circumstances, no application by any person, request by any person for any service, activity, use of any Town property or facility described in a Schedule, and no application to the Committee of Adjustment will be processed or provided unless and until the person making the application or requesting the service, activity or use of Town property or facility has paid the applicable fee in the prescribed amount as set out in the Schedule, any applicable disbursements or other charges and any applicable Harmonized Sales Tax or other successor tax as may apply.

5.3. Notwithstanding subsection 5.1, where a fee or charge levied under this by-law is not due prior to the delivery of the service, participation in the activity, or use of the Town property or facility, or cannot in the circumstances be determined in advance, as for example, in the case of a service charged on an hourly rate, or where the amount of a recoverable disbursement cannot be determined in advance, then an invoice shall be sent to the person responsible for payment, and payment shall be due on the date specified in the invoice.

6. Contribution to Appeals – Planning Applications

- 6.1. On all applications under the Planning Act, including without limitation, applications for minor variance, consent, rezoning, Official Plan amendment, subdivision approval, the applicant shall, in the application for services, undertake to pay a fee in accordance with Schedule F as a contribution towards the Town's legal fees, costs and disbursements associated with the preparation for and attendance at all Land Planning Appeal Tribunal hearings in the event that the application is approved by the Committee of Adjustment or Council as the case may be; the application is appealed by a third party to the Tribunal, and if the applicant wishes the Town of Lakeshore to attend on or participate in the appeal.
- 6.2. The applicant shall pay to the Town of Lakeshore in advance of any scheduled hearing date, an amount equal to the number of days the hearing is anticipated to last as established by the Director of Legislative & Legal Services, times the fee determined in accordance with Schedule F. In the event that payment is not made or guaranteed to the satisfaction of the Director of Legislative & Legal Services, prior to the commencement of the hearing, the Town of Lakeshore shall not attend upon the hearing. The applicant shall be responsible to pay any fees required by the Land Planning Appeal Tribunal, whether required to be paid by the Town of Lakeshore or not, and shall be responsible for payment of any costs associated with his or her own representation at the hearing. Any amount secured by advance payment shall be a debt owing to the Town of Lakeshore and bear interest at the rate provided for in this by-law until payment in full.
- 6.3. Nothing in subsection 6.2 limits Council for the Town of Lakeshore from determining that the Town will attend and participate in the hearing of the third party appeal without the applicant being required to pay the fee as set out in Schedule F.

7. Interest on Receivables

- 7.1. Unless a contrary rate is provided for elsewhere, overdue amounts owing to the Town shall bear interest at the rate set out on Schedule H as the rate payable on overdue amounts, from the due date until payment in full.
- 7.2. Notwithstanding Subsection 7.1, the Treasurer is hereby authorized to reduce or waive accrued interest when she or he is satisfied that it would be unreasonable in the circumstances to require payment of interest at the rate provided or at all.

8. Add to Tax Role

- 8.1. Fees and charges listed in the attached Schedules to this by-law and imposed on a person or party, constitute a debt of the person or party to The Corporation of the Town of Lakeshore. The Town's Treasurer may add unpaid fees and charges imposed by the Town to the tax roll for the following property in the Town limits and shall collect them in the same manner as municipal taxes:
 - 8.1.1. In the case of fees and charges for the supply of a public utility, the property to which the public utility was charged; and
 - 8.1.2. In all other cases, any property for which all of the owners are responsible for paying the fees and charges.

9. Recovery of Costs for Remedial Action

- 9.1. Where permitted under this or any other by-law or law, where the Town has directed or required a person to do a matter or thing, in default of it being done by the person directed or required to do it, the Town may do the matter or thing at the person's expense. The municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

10. Annual Inflationary Increase

- 10.1. The fees in Schedule A through K shall be adjusted annually, without amended to this by-law, on the 1st of January, except for Schedule C and Schedule I rates which are effective the 1st of April, in accordance with the applied year over year change in the Consumer Price Index (CPI). Fees, including indexing adjustments, may then be rounded up, as follows:
 - 10.1.1. Fees less than \$1 per unit rounded up to the nearest \$0.01 (one cent);
 - 10.1.2. Fees greater than \$1 and up to \$5 per unit rounded up to the nearest \$0.05 (five cents);
 - 10.1.3. Fees greater than \$5 per unit rounded up to the nearest \$1.00 (one dollar);All fees will be charged plus applicable taxes, unless otherwise noted.
- 10.2. The user deposit amounts in various Schedules and the user rates for water and wastewater (Schedule K) are not subject to annual CPI indexing, but are as established under this by-law and as amended through Council approval from time to time.

11. Repeal

- 11.1. By-law 15-2019 and all by-laws amending By-law 15-2019 are hereby repealed.
- 11.2. Any amount owing under By-law 15-2019 as amended and unpaid as of the date of repeal shall survive and continue to be a debt owing to the Town and is collectible by the Town, despite the repeal of By-law 15-2019 as amended.

12. Effect

- 12.1. This by-law shall come into force and effect upon passage, save and except where approval of any fee by any regulatory agency or body is required, in which case the fee shall come into effect only upon such approval being granted.
- 12.2. Despite anything to the contrary in this by-law, where a Schedule in this By-law has specified effective dates, then any such Schedule shall be in effect only until the date set out therein, or shall come into effect only as of the date set out therein, as the case may be.

13. Short Title

- 13.1. This by-law shall be known as the "User Fees By-law".

14. Accessibility

- 14.1. In accordance with the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c.11, and regulations thereunder, all as amended or replaced from time to time, no additional fee shall be charged to a person with a disability arising from or related to their disability.

Read and passed in an open meeting of Council on December 10, 2019.

Tom Bain
Mayor

Kristen Newman
Director of Legislative and
Legal Services (Clerk)